



PUBLIC NOTICE

Federal Communications Commission
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DA 07-113
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DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF PAC-WEST TELECOMM, INC. TO COLUMBIA VENTURES CORPORATION

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 07-4

Comments Due: February 1, 2007
Reply Comments Due: February 8, 2007

On December 27, 2006, Pac-West Telecomm, Inc. ("Pac-West"), Pac-West Acquisition Company LLC ("PWAC"), and Columbia Ventures Corporation ("CVC") (together, "Applicants"), filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority to transfer control of Pac-West to PWAC, a wholly owned subsidiary of CVC.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because immediately following the transaction (a) applicants and their affiliates together will hold less than a ten percent (10%) share of the interstate, interexchange market; (b) applicants and their affiliates will provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by dominant local exchange carriers (none of which are parties to the proposed transactions); and (c) none of the applicants or their affiliates is dominant with respect to any service that they provide.³

Pac-West, a publicly-traded, California corporation, provides communications services to Internet service providers (ISPs), Voice over Internet Protocol (VoIP) providers, enhanced communication service providers (ESPs), and other wholesale customers in Alabama, Arizona, California, Colorado, Delaware, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Maryland, Nevada, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Virginia, Washington, and Wisconsin. Pac-West also provides interstate long distance services (primarily 800 service) to business customers in Arizona, California, Nevada, Oregon, and Washington, and has a few

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ 47 C.F.R. § 63.03(b)(2)(i).

residential customers in California who are also employees of Pac-West. Pac-West's subsidiary, Pac-West Telecomm of Virginia, Inc., is authorized to provide local exchange and interexchange telecommunications services in Virginia. Applicants state that, while Pac-West is widely held, only one person or entity has a 10 percent or greater direct or indirect ownership interest: Samuel A. Plum, a U.S. citizen, has a 10.3 percent ownership interest in Pac-West.

PWAC is a Washington limited liability company and a wholly-owned subsidiary of CVC. No other person or entity holds a 10 percent or greater ownership interest in PWAC. PWAC was formed for the sole purpose of making the proposed investment in Pac-West and will be a holding company for Pac-West following completion of the transaction.

CVC is a Washington investment corporation that owns and operates a portfolio of telecommunications companies and a small number of manufacturing businesses around the world. CVC is authorized to provide domestic interstate and international telecommunications services, but CVC does not directly provide telecommunications services. CVC owns fifty percent (50%) of One Communications Corp. ("One Communications"), a U.S.-based holding company that owns several licensed U.S.-based⁴ competitive local exchange carriers (LECs).⁵ One Communications provides local exchange, interexchange, and data services to small, medium and large businesses predominantly in the Northeast, Mid-Atlantic and upper Mid-west regions. Applicants state that Kenneth D. Peterson, Jr. ("Peterson"), a U.S. citizen, holds 100 percent of the ownership interest in CVC. Other than through CVC, none of Peterson's ownership interests in U.S. telecommunications services providers exceeds 10 percent. Peterson also wholly owns European Access Providers Limited ("LEAP"), a competitive provider of wireless and Internet over DSL services in Ireland.

⁴ See Letter from Brett P. Ferencsak, Counsel for Applicants, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 07-4, at 3 (filed Jan. 16, 2007).

⁵ The following is a list of competitive LECs owned by CVC: Choice One Communications of Connecticut, Inc.; Choice One Communications of Maine Inc.; Choice One Communications of Massachusetts, Inc.; Choice One Communications of New York, Inc.; Choice One Communications of Ohio, Inc.; Choice One Communications of Pennsylvania, Inc.; Choice One Communications of Rhode Island, Inc.; Choice One Communications of Vermont, Inc.; Choice One Communications of Virginia, Inc.; Choice One of New Hampshire, Inc.; Connecticut Broadband, LLC; Connecticut Telephone & Communication Systems, Inc.; Conversent Communications of Connecticut, LLC; Conversent Communications of Maine, LLC; Conversent Communications of Massachusetts, Inc.; Conversent Communications of New Hampshire, LLC; Conversent Communications of New Jersey, LLC; Conversent Communications of New York, LLC; Conversent Communications of Pennsylvania, LLC; Conversent Communications of Rhode Island, LLC; Conversent Communications of Vermont, LLC; Conversent Communications, LLC; CTC Communications Corp.; CTC Communications of Virginia, Inc.; FiberNet of Ohio, LLC; FiberNet Telecommunications of Pennsylvania, LLC; FiberNet, L.L.C.; Lightship Telecom, LLC; US Xchange, Inc.; US Xchange of Illinois, L.L.C.; US Xchange of Indiana, L.L.C.; US Xchange of Michigan, L.L.C.; and US Xchange of Wisconsin, L.L.C.

CVC also owns five companies that do business under the Hibernia Atlantic name⁶ and that collectively own a trans-Atlantic fiber-optic network linking Boston, Massachusetts, Halifax, Canada, Dublin, Ireland and London, United Kingdom. None of the foreign Hibernia Companies have market power in their destination markets. CVC holds ownership interest in two other foreign telecommunications carriers, Globalstar Australia and Magnet Networks Limited. CVC's wholly-owned subsidiary, Columbia Ventures (Australia) Pty. Ltd., hold a 50 percent interest in Globalstar Australia, a provider of competitive wireless services in Australia. Globalstar Australia does not have market power in Australia. Magnet Networks is a Dublin, Ireland based communications company that provides telephone, Internet, and video services in and around Dublin. Magnet Networks does not have market power in Ireland. CVC also owns Columbia Fiber Solutions, a Washington limited liability company and a dark fiber provider in Washington and Oregon, as well as a 12.3 percent ownership interest in Metro One Telecommunications, Inc., an Oregon corporation, which provides directory assistance and information services via a nationwide network of call centers.

On November 15, 2006, Pac-West and PWAC entered into a Preferred Stock Purchase Agreement, under which PWAC purchased, in aggregate, 48,158 shares of newly designated non-voting and convertible Series B-1 Preferred Stock, par value \$0.001 per share, of Pac-West (the "Series B-1 Preferred Stock") and newly designated non-voting and convertible Series B-2 Preferred Stock (the "Series B-2 Preferred Stock" and together with the Series B-1 Preferred Stock, the "Preferred stock"). Applicants state that concurrently with the execution of the Stock Purchase Agreement, and in order to permit Pac-West to continue its operations, another newly created subsidiary of CVC, Pac-West Funding Company ("PWFC"), purchased all of Comerica Bank's rights, title and interest in its existing Loan and Security Agreement with Pac-West and such Loan and Security Agreement was amended and restated as the Amended and Restated Loan and Security Agreement. Control of Pac-West was not transferred to PWAC or PWFC as a result of the issuance of the non-voting Preferred Stock to PWAC or the purchase by PWFC of Comerica Bank's interest in the Loan and Security Agreement.

Applicants assert that the proposed transaction will serve the public interest because the transaction is necessary to provide critical financial resources to Pac-West that will allow Pac-West to continue to provide high quality services to its customers. Applicants state that, absent this transaction, Pac-West faced a decision to immediately file for bankruptcy protection and liquidation, which would have had adverse consequences for its employees and investors and would have resulted in a discontinuance of service to its customers. Applicants state further that the transaction will be transparent to consumers because there will be no change in the day-to-day management of Pac-West; the manner in which Pac West offers service will not change; and Pac-West will continue to offer the services it currently offers with no change in the rates, terms or conditions of service.

GENERAL INFORMATION

⁶ These companies consist of Hibernia Atlantic Cable System Limited (f/k/a CVC Acquisition Company (Ireland) Limited, Hibernia Atlantic (UK) Limited (f/k/a CVC Acquisition Company(UK) Limited), Hibernia Atlantic Communications (Canada)Company (f/k/a CVC Acquisition Company (Canada) Ltd.), Hibernia Atlantic U.S. LLC (f/k/a Columbia Ventures U.S. Acquisition LLC), and CVC Acquisition (CI) Corporation (collectively, the "Hibernia Companies").

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before February 1, 2007** and **reply comments on or before February 8, 2007**.⁷ Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31st day after the date of this notice.⁸ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

⁷ See 47 C.F.R. § 63.03(a).

⁸ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Cecilia Seppings, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A103, Washington, D.C. 20554; email: cecilia.seppings@fcc.gov;
- (3) Kimberly Jackson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: kimberly.jackson@fcc.gov
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Cecilia Seppings at (202) 418-1588, or Kimberly Jackson at (202) 418-7393.

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